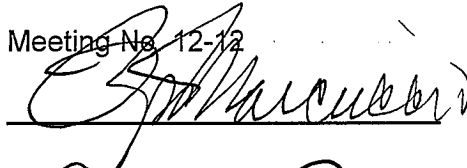
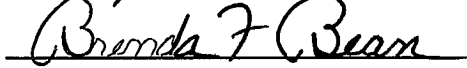


APPROVED: Meeting No. 12-12

ATTEST:

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
December 12, 2011  
7:00 p.m.  
Meeting No. 34-11

**PRESENT:**

Mayor Phyllis Marcuccio, Councilmember John Hall, Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

**STAFF PRESENT:**

Acting City Manager Jenny Kimball, Acting City Clerk Brenda Bean and City Attorney Debra Daniel.

**1. Convene**

The Mayor and Council convened in a regular meeting at 7:00 pm on Monday, December 12, 2011 in City Hall, 111 Maryland Avenue, Rockville, Maryland.

**2. Pledge of Allegiance**

Mayor Marcuccio led the Pledge of Allegiance.

**3. Agenda Review**

Acting City Manager Kimball reported that the two items associated with the National Lutheran Home Bond issue were pulled from the Consent Agenda and will now immediately follow the Consent Agenda.

**4. City Manager's Report**

Jenny Kimball reported:

- 1) The Senior Center would be closed for two weeks because new floors are being installed.
- 2) December 18th is the last Glenview Mansion Open House for the holidays.

**5. Presentation - Rockville Economic Development Inc. (REDI) Update**

Sally Sternbach, Executive Director of REDI congratulated Mayor and Council on the recent election. She then reported on current and upcoming activities of REDI, including the fact that REDI was chosen to be a mentor under the Innovate Program.

## **6. Appointments & Announcement of Vacancies**

### **Cultural Arts Commission**

John Moser (Reappointment as Chair until 12/01/12)

**Motion:** to reappoint John Moser as Chair of the Cultural Arts Commission until 12/01/12.

Moved by moved by Councilmember Bridget Donnell Newton, seconded by Councilmember Hall and unanimously approved.

### **Human Services Advisory Commission**

Tina Carter (Appointment as member until 12/01/14)

**Motion:** to appoint Tina Carter as a member to the Human Services Advisory Commission as a member until 12/01/14.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

### **Traffic and Transportation Commission**

Richard Resnick (Reappointment as member until 12/01/14)

Charles Swain (Appointment as member until 12/01/14)

**Motion:** to appoint Richard Resnick and Charles Swain as members to the Traffic and Transportation Commission 12/01/14.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

## **7. Discussion - 2012 State Legislative Session Preview with District 17**

The Mayor and Council received presentations from the District 17 Delegation (Senator Jennie Forehand, Delegate Kumar Barve, Delegate Jim Gilchrist, and Delegate Luiz Simmons) in an effort to highlight the 2012 State Legislative Session and to discuss Rockville's 2012 Legislative Priorities.

Delegate Barve congratulated the Mayor and Council on the recent election. Delegate Barve's topics included:

- His recent travel to India as part of a Trade Mission
- Stressful legislation with respect to the budget
- Revenue expectations for sales tax much less than expected
- Maryland is more sensitive to federal budget issues than what happens in other states because of our proximity to Virginia and DC
- Look forward to seeing a MOU for the work with schools

- Legislative redistricting means that District 17 will probably lose the town of Garret Park and will only cover Gaithersburg and Rockville

Delegate Luiz Simmons also congratulated the Mayor and Council. His topics included:

- Statistics from the Maryland Department of Education with respect to the achievement of African American and Hispanic students.
- State of Maryland to spend \$100 million on subsidy for horse racing business. He will introduce legislation to redirect the money to some facet of school funding. Video lottery revenues.

Delegate Jim Gilchrist reported on:

- Ethics Ordinance - Senator Raskin reviewing the issue to see if they will apply to part time municipal elected officials
- Speed camera sign off - sworn police to sign off on tickets.
- Stormwater Management Fees
- Highway User revenues. The state is in budget problem and has been for five years. One way we have gotten through it is to cut highway user revenue funds

Senator Forehand reported on:

- speed monitoring cameras
- new seatbelt legislation
- some of the money for the Senior Center renovations is from the state
- funding for Thomas Farm
- COLAs for State employees
- elections and mailing paper ballots
- expand the definition of Abuse Bill
- legislation to hold vendors of alcohol beverages to be held liable
- gender identity as a protected class in Hate Crimes laws
- ICC is open and is getting good reviews; she is pushing for a higher speed limit
- Major issue - education and teacher's salaries
- her efforts to save RICA (a state community-based, public treatment and educational facility serving children and adolescents with serious emotional issues)

## 8. Citizen's Forum

<i>Citizen</i>	<i>Issue</i>
DJ Schubert	White Tail Deer Task Force Report
Dustin Rhodes	White Tail Deer Task Force Report
Alisa Mandel	White Tail Deer Task Force Report
Susan Prince	Pumphrey's Funeral Home Parking Lot; rats in the West End
Jim Vitol	Pumphrey's Funeral Home Parking Lot and related Text Amendment
Irwin Cohen	White Tail Deer Task Force Report

## 9. Mayor and Council's Response to Citizen's Forum and Announcements

The following members of the Mayor and Council responded to remarks made during Citizens' Forum: Councilmembers Pierzchala and Newton.

#### **10. Consent Agenda**

The Mayor and Council discussed: how the Statement of Investment Policy was formulated; the possibility of seeking the advice of financial experts; the use of derivatives and best practice elements; and the ability to discuss the Investment Policy for Rockville at any time.

- A. Adoption of Resolution to Revise the Statement of Investment Policy for the investment of the City's operating and capital funds.
- B. Adoption of Ordinance to approve SCA2011-00099 - Application to permanently close and abandon an unimproved public right-of-way, adjacent to 210 Woodland Road, between Woodland Road and Ashley Manor Drive.
- D. Adoption of Annexation Plan for Annexation Petition ANX2011-00142
- E. Resolution Authorizing the Designation of Rockville as a Sustainable Community by the Maryland Department of Housing and Community Development and Application for Such Designation.

**Motion:** to approve the Consent Agenda.

Moved by Councilmember Hall, seconded by Councilmember Moore and unanimously approved.

#### **11. Public Hearing - Economic Development Revenue Bond Financing for National Lutheran Home and Village at 9701 Veirs Drive, Rockville.**

Director of Finance Gavin Cohen presented the background on this item, speaking about the public hearing process and the fact that an additional public hearing, conducted internally, will be held on December 23rd. The Bond Counsel for the Rockville, Jim Cumbie, Esquire, and Gavin Cohen will administer the public hearing. There being no speakers, the Mayor closed the public hearing and said the record would remain open until 10:30 a.m., Friday, December 23, 2011.

#### **12. Adoption of Resolution to approve the Economic Development Revenue Bond Financing for National Lutheran Home and Village at 9701 Veirs Drive, Rockville.**

**Motion:** to adopt the Resolution to approve the Economic Development Revenue Bond Financing for National Lutheran Home and Village at 9701 Veirs Drive, Rockville.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

#### **13. Public Hearing - Public Hearing on Zoning Text Amendment TXT2012-00231 - Clarification of the definition of "family"**

Planner Deane Mellander presented the background on this item stating that this Text Amendment was filed in order to clarify the definition of "family." The definition of family has, for decades, included provisions for both persons related by blood or marriage, or for up to five unrelated persons and said that the revisions do not change this long-standing policy. There being no speakers, the Mayor declared the public hearing closed and said that the record would remain open until the close of business on Friday, December 16, 2011.

**14. Presentation - Updated White-Tailed Deer Management Plan (WTDMP) by the White-Tailed Deer Task Force (WTDTF)**

Superintendent of Parks and Facilities, Steve Mader, presented the background on this item and said that staff recommends the Mayor and Council receive the presentation of WTDTF recommendations and the updated White-Tailed Deer Management Plan (WTDMP), with the changes, deletions and additions made since the July 11, 2011 presentation. Mr. Mader introduced Stuart Hagen, a member of the Task Force who presented the final work of the group. He spoke of the changes made to the WTDTF recommendations and the Deer Management Plan. Mr. Rob Gibbs, of the Maryland National Capital Park and Planning Commission, was introduced and he gave a report on the work of the Montgomery County Deer Work group. Mr. Gibbs said that this group was comprised of a multi-agency committee who has some role in deer management and that it would make sense to add a Rockville staff member to that committee. George Simpko from the Department of Natural Resources was then introduced. Mr. Simpko spoke of DNR's methods and processes managing deer as well as the agency's involvement with the City's Task Force. He said it was their goal is to provide expertise on deer management. Mr. Simpko agreed that it was a very good idea for a City staff person to become a part of the County's Deer Management Program.

There was broad and general discussion between the Mayor and Council on the report of the Task Force, as well as the recommendations, that included: gratitude and appreciation to the Task Force for their work; the use of the deer cameras, an idea of what is the population; the possibility of approving the plan without any references to lethal reductions; maintain the status quo plan; ways to collect accurate data (aerial surveys); if there were to be a hunt, what areas in Rockville could accommodate this; the hot spots in Rockville for deer accidents; ecological damage assessment; did Montgomery County include Rockville in their plan; locations that Montgomery County uses for hunts; costs associated with various options, possibility of fencing certain areas; possibility of using deer repellants; get baseline of numbers to compare with data collected in the mid-nineties.

Councilmember Pierzchala - Not prepared to support any lethal means at this time and would like to have recent data; would also like to see an ecological assessment done; supports appropriate City staff attending a conference on deer contraception.

Councilmember Hall - Does not think that we should do nothing; will absolutely not support changing the city law that would allow the discharge of fire arms in the city; he and his wife nearly lost their lives as a result of a collision with a deer; needs to know what our deer population is; will consider recommendations that do not include lethal reduction.

Councilmember Newton - Agrees with Councilmember Hall; will not support a hunt and is willing to try almost anything else; does not support contraception because of high cost; wants an accurate census of our deer population.

Mayor Marcuccio - wants more information; does not believe that we are overrun by deer and would like to see more data regarding deer population and how it is behaving before we decide what to do with it.

Councilmember Moore - much more data is needed; allowing a hunt in a densely populated urban area would have to be the last resort; receive accurate data and assess.

There was unanimous agreement that before the Mayor and Council adopt the Plan; they would like to see a final version.

**15. Approval - Fiscal Year 2011 Popular Annual Financial Report.**

Gavin Cohen introduced Erica Tompkins from Budget Staff who presented the report to the Mayor and Council. Ensuing Mayor and Council discussion included: parking fund should not be shown in "green" because money is being transferred in; discrepancies in some verbiage according to state law; careful to be transparent and totally clear where we are financially; too simplistic of a table being used in document; the water fund seems to be consistently in trouble; drawing down of funds; compliments to staff on this report; a good tool for residents to use to see how our budget works; unlike CAFR, changes can be made to this document; and the real value was in the explanations.

**Motion:** to approve Fiscal Year 2011 Popular Annual Financial Report

Moved by Councilmember Bridget Donnell Newton, seconded by Councilmember John Hall and unanimously approved.

**16. Approval - Fiscal Year 2011 Audited Financial Reports.**

Director of Finance Gavin Cohen provided introductory remarks and introduced Dan Kenney, Partner with the Resnik Group, who presented the Mayor and Council with the results of the audit report. Ensuing Mayor and Council discussion included: receiving fund reports more than just once a year; balance sheets can be produced often, but not the report; difficult to make comparisons and projections based on trends; internal controls; debt per capita; financial impact of earlier approval for vesting; graduated three year investing schedule; cost impact comes through as reduced forfeitures.

**Motion:** to approve Fiscal Year 2011 Audited Financial Report

Moved by Councilmember Moore, seconded by Councilmember Hall and unanimously approved.

**17. Review and Comment - First Quarter FY 2012 Financial Report.**

Director of Finance Gavin Cohen provided the background on this item stating that the Quarterly Report is a mechanism used to monitor the adopted budget. Ensuing discussion included: \$4,500 leftover from the Golf Fund purchase order; projection for overtime versus adopted budget; some overtime funded by grants; flat rate for sewer no matter how much you use; tiered rates; would like to see previous opinion on this from Paul Glasgow.

Due to the lateness of the hour, Councilmember Hall made a motion to adjourn the meeting. Mr. Cohen and Ms. Daniel responded that their remaining items were time sensitive and needed to be acted on this evening. Councilmember Hall withdrew his motion.

18. Discussion and Instructions - City of Rockville's Supplement to the State of Maryland's Homeowners' Tax Credit (HTC) Program.

Director of Finance Cohen provided the background on this item and laid out the timeframe in order to get the changes to the State. Ensuing discussion included: what would a \$100 rebate mean to the budget; the number of participants in the program and what percentage of participants are seniors.

**Motion:** to expand the City of Rockville's Supplement to the State of Maryland's Homeowners' Tax Credit (HTC) Program parameters to \$91,000.00 in maximum gross income, and \$495,000 for the homes' qualifying assessment.

Moved by Councilmember Tom Moore, seconded by Councilmember Mark Pierzchala and unanimously approved.

19. Discussion - Ethics Ordinance.

Councilmember Newton requested this item be tabled to the next meeting due to the lateness of the hour and the need for a thoughtful discussion. City Attorney Daniel explained why input was needed for Senator Raskin before December 25th. A deadline extension could be filed, though the later an Emergency Bill is filed, the more difficult it is to get passed. Ensuing discussion covered:

- the need for a public hearing
- look at revised statement of financial interests
- look at model form and a clean copy of the proposal (the way it would read)
- enormous undertaking - the kind of work that you only want to do once
- options are having to do more with threshold than actually reporting
- stricter requirements apply here
- cutoff amount is \$25,000 which means the Mayor would be subject to this but not the Council
- is the threshold too low
- who needs to file - elected officials and local officials
- the requirement of having to report property wherever located even if it is a noncontrolling interest property
- too much to ask of our Boards and Commission and volunteers
- excellent opportunity for transparency
- Article 66B Boardmembers and Commissioners yield a lot of power and is appropriate for them to disclose
- already having difficulty filling up Boards and Commissions and disclosing is already burdensome

Councilmember Newton asked that staff provide the Mayor and Council with a model form and a clean copy of the Ordinance. There was unanimous agreement that this item be brought back for the January 9th meeting and that it be placed early on the agenda.

**20. Review and Comment - Mayor and Council Action Report**

Acting City Manager Jenny Kimball said that the Action Report is now being produced in color to show what has been added.

**21. Review and Comment - Review & Comment regarding Future Agendas**

Councilmember Newton reiterated her request to bring back the ethics discussion on January 9th and that it be placed early on the agenda. Councilmember Moore asked to receive the legislative history for the Pumphrey's site. Councilmember Pierzchala requested that follow up to the Rockville Summit be placed on a January agenda. Concerning the Silverwood annexation, Ms. Daniel said that two petitions for Judicial Review (the Mayor and Council adoption and the Planning Commission approval of the site plan) have been filed and the City has thirty days from the date of the notice. Ms. Daniel recommended that the Mayor and Council discuss this at their January 9th meeting. This item, along with the Pumphrey's property, could be considered for Executive Session.

**22. Mayor and Council Liaisons to Boards and Commissions Report**

There were no reports given.

**23. Old/New Business**

Regarding the Pepco tree removal, Councilmember Newton asked if the City agreed to pay for stump removal and asked that staff provide her with information on this aspect of Pepco's project. Regarding Consent Agenda item E, Councilmember Newton asked to see a final document. Ms. Kimball said that the County is finalizing the plan but there is a draft she could provide. Regarding the upcoming MML Legislative dinner, all commented that they planned to attend.

**24. Adjournment**

There being no further business and upon **Motion** by Councilmember Newton, seconded by Councilmember Moore and unanimously approved, the meeting adjourned at 12:15 am.